

**MOSES & SINGER LLP**  

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June 29, 2006

**VIA ELECTRONIC FILING and  
FIRST CLASS MAIL**

Hon. Joseph F. Bianco  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**Re: FragranceNet.com, Inc. v. FragranceX.com, Inc., CV-06-2225**

Dear Judge Bianco:

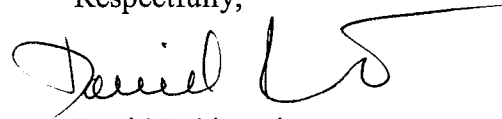
We are incoming counsel for defendant, FragranceX.com, Inc. I enclose the papers required by Local Civil Rule 1.4 for a substitution of counsel.

Defendant was required to move or answer in response to the First Amended Complaint by June 30. Before we knew that previous counsel had appeared in this matter, we filed a letter on June 28 requesting leave to move to dismiss under F.R.C.P. 8 and 12 in order to meet that deadline.

We respectfully request that leave for substitution of counsel be granted and that our letter of June 28 be accepted nunc pro tunc as defendant's response to the First Amended Complaint.

Your consideration is appreciated.

Respectfully,



David Rabinowitz

Encls.  
DR:dr

cc: Robert L. Sherman, Esq. (via facsimile and first class mail)  
Catherine M. Clayton, Esq. (via facsimile and first class mail)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
FRAGRANCENET.COM, INC.,

Plaintiff,

-v-

FRAGRANCEX.COM, INC. and JOHN DOES 1-20,

Defendants.  
-----X

X

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X

CV 06 2225 (JFB) (AKT)


**NOTICE OF APPEARANCE  
AND SUBSTITUTION OF  
COUNSEL**

PLEASE TAKE NOTICE that Moses & Singer LLP has been retained and substituted as counsel for Defendant FragranceX.com, Inc. in place of Darby & Darby, P.C. in the captioned action as of the date hereof.

PLEASE TAKE FURTHER NOTICE that all papers should hereinafter be served on Moses & Singer LLP.

Dated: New York, New York  
June 29, 2006

Moses & Singer LLP  
Substituted Counsel for Defendant

By:   
David Rabinowitz (DR-5205)  
405 Lexington Avenue  
New York, New York 10174-1299  
(212) 554-7800



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
FRAGRANCENET.COM, INC.,

Plaintiff,

-v-

FRAGRANCEX.COM, INC. and JOHN DOES 1-20,

Defendants.

X

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X

CV 06 2225 (JFB) (AKT)

**AFFIDAVIT OF ROBERT S.  
WEISBEIN**

STATE OF NEW YORK )

ss.:

COUNTY OF NEW YORK )

ROBERT S. WEISBEIN, being duly sworn, deposes and states:

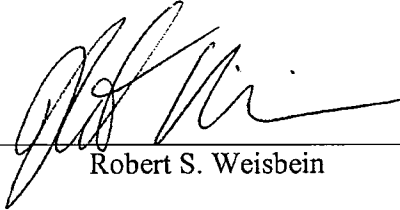
1. I am an attorney duly admitted to the Bar of this Court and a Member of Darby & Darby, P.C., retiring counsel for Defendant FragranceX.com, Inc. I make this affidavit, based upon my personal knowledge herein, in support of Defendant's application, pursuant to Local Civil Rule 1.4, for an order permitting the firm of Moses & Singer LLP to be substituted as counsel of record for Defendant in this action in place of the firm of Darby & Darby P.C.

2. I have learned that Defendant no longer wishes Darby & Darby, P.C., to represent it in this action and instead wishes Moses & Singer LLP to handle this matter.

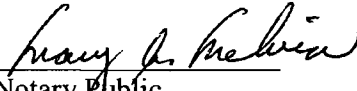
3. Moses & Singer LLP has consented to this change of counsel and I have signed a Stipulation and Order for Substitution of Counsel, which I understand Moses & Singer LLP will be submitting to this Court.

4. This substitution of counsel will not delay the completion of this case since all files relating to defendants and these proceedings have been duly transferred to David Rabinowitz of Moses & Singer LLP, who is familiar with these proceedings.

5. Based on the foregoing, I respectfully request that this Court permit the substitution of counsel and allow Moses & Singer LLP to become counsel of record for Defendant in this matter.

  
Robert S. Weisbein

Sworn to before me this  
29<sup>th</sup> day of June 2006

  
Notary Public

MARY A. MELVIN  
Notary Public, State of New York  
No. 01ME4724081  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires October 31, 2006